

## § 203.671

(b) The Secretary will accept conveyance of an occupied property containing one to four residential units if the Secretary finds that:

(1) An individual residing in the property suffers from a temporary, permanent, or long-term illness or injury that would be aggravated by the process of moving from the property, and that the individual meets the eligibility criteria in § 203.674(a);

(2) State or local law prohibits the mortgagee from evicting a tenant residing in the property who is making regular monthly payments to the mortgagor, or prohibits eviction for other similar reasons beyond the control of the mortgagee; or

(3) It is in the Secretary's interest to accept conveyance of the property occupied under § 203.671, the property is habitable as defined in § 203.673, and, except for conveyances under § 203.671(d), each occupant who intends to remain in the property after the conveyance meets the eligibility criteria in § 203.674(b).

(c) HUD consents to accept good marketable title to occupied property where 90 days have elapsed since the mortgagee notified HUD of pending acquisition, the Department has notified the mortgagee that it was considering a request for continued occupancy, and no subsequent notification from HUD has been received by the mortgagee.

[53 FR 874, Jan. 14, 1988, as amended at 56 FR 46967, Sept. 16, 1991; 58 FR 54246, Oct. 20, 1993; 61 FR 36266, July 9, 1996]

### § 203.671 Criteria for determining the Secretary's interest.

It is in the Secretary's interest to accept occupied conveyance when one or more of the following are met:

(a) Occupancy of the property is essential to protect it from vandalism from time of acquisition to the time of preparation for sale.

(b) The average time in inventory for HUD's unsold inventory in the residential area in which the property is located exceeds six months.

(c) With respect to multi-unit properties, the marketability of the property would be improved by retaining occupancy of one or more units.

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(d) The high cost of eviction or relocation expenses makes eviction impractical.

[45 FR 59563, Sept. 10, 1980, as amended at 56 FR 46967, Sept. 16, 1991; 58 FR 54246, Oct. 20, 1993]

### § 203.672 Residential areas.

(a) For the purposes of occupied conveyance considerations, a residential area is any area which constitutes a local economic market for the purchase and sale of residential real estate. In making determinations of residential areas, substantial weight shall be given to delineations of such areas commonly used by persons active in the real estate industry in the affected area.

(b) HUD shall establish such residential areas within six (6) months of the publication of these regulations when HUD's current established patterns of dealing with the disposition of its acquired home property inventory and related recordkeeping does not coincide with paragraph (a) of this section. Under such circumstances the Secretary shall apply such established patterns in defining residential areas until the standards in paragraph (a) of this section are implemented.

[45 FR 59563, Sept. 10, 1980]

### § 203.673 Habitability.

(a) For purposes of § 203.670, a property is habitable if it meets the requirements of this section in its present condition, or will meet these requirements with the expenditure of not more than five percent of the fair market value of the property. The cost of hazard reduction or abatement of lead-based paint hazards in the property, as required by the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), and the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations in part 35 of this title, is excluded from these repair cost limitations.

(b)(1) Each residential unit must contain:

(i) Heating facilities adequate for healthful and comfortable living conditions, taking into consideration the local climate;

(ii) Adequate electrical supply for lighting and for equipment used in the residential unit;

(iii) Adequate cooking facilities;

(iv) A continuing supply of hot and cold water; and

(v) Adequate sanitary facilities and a safe method of sewage disposal.

(2) The property shall be structurally sound, reasonably durable, and free from hazards that may adversely affect the health and safety of the occupants or may impair the customary use and enjoyment by the occupants. Unacceptable hazards include, but are not limited to, subsidence, erosion, flood, exposure to the elements, exposed or unsafe electrical wiring, or an accumulation of minor hazards, such as broken stairs.

(c) If repairs, including lead-based paint hazard reduction or abatement, are to be made while the property is occupied, the occupant must hold the Secretary and the Department harmless against any personal injury or property damage that may occur during the process of making repairs. If temporary relocation of the occupant is necessary during repairs, no reimbursement for relocation expenses will be provided to the occupant.

[53 FR 874, Jan. 14, 1988, as amended at 64 FR 50225, Sept. 15, 1999]

#### **§ 203.674 Eligibility for continued occupancy.**

(a) Occupancy because of temporary, permanent, or long-term illness or injury of an individual residing in the property will be limited to a reasonable time, to be determined by the Secretary on a case-by-case basis, and will be permitted only if all the conditions in this paragraph (a) are met:

(1) A timely request is made in accordance with § 203.676, including the submittal of documents required in § 203.675(b)(4).

(2) The occupant agrees to execute a month-to-month lease, at the time of acquisition of the property by the Secretary and on a form prescribed by HUD, and to pay a fair market rent as determined by the Secretary. The rental rate shall be established on the basis of rents charged for other properties in comparable condition after completion of repairs (if any).

(3) The occupant's total housing cost (rent plus utility costs to be paid by the occupant) will not exceed 38 percent of the occupant's net effective income (gross income less Federal income taxes). However, a higher percentage may be permitted if the occupant has been paying at least the required rental amount for the dwelling, or if there are other compensating factors (e.g., where the occupant is able to rely on cash savings or on contributions from family members to cover total housing costs).

(4) The occupant agrees to allow access to the property (during normal business hours and upon a minimum of two days advance notice) by HUD Field Office staff or by a HUD representative, so that the property may be inspected and any necessary repairs accomplished, or by a sales broker.

(5) The occupant discloses and verifies Social Security Numbers, as provided by part 200, subpart T, of this chapter.

(b) An occupant who does not meet the illness or injury criteria in paragraph (a) of this section is eligible for continued occupancy only if all the conditions in this paragraph (b) are met:

(1) A timely request is made in accordance with § 203.676.

(2) The occupant agrees to execute a month-to-month lease, at the time of acquisition of the property by the Secretary and on a form prescribed by HUD, to pay fair market rent as determined by the Secretary, and to pay the rent for the first month in advance at the time the lease is executed. The rental rate shall be established on the basis of rents charged for other properties in comparable condition after completion of repairs (if any).

(3) The occupant will have been in occupancy at least 90 days before the date the mortgagee acquires title to the property.

(4) The occupant's total housing cost (rent plus utility costs to be paid by the occupant) will not exceed 38 percent of the occupant's net effective income (gross income less Federal income taxes). However, a higher percentage may be permitted if the occupant has been paying at least the required rental amount for the dwelling,